

REGULAR CITY COUNCIL MEETING

JULY 8, 1985

PRESENT

Grant S. Nielson
Craig Greathouse
Neil Dutson
Ruth Hansen
Gayle Bunker
Don Dafoe

Mayor
Council Member
Council Member
Council Member
Council Member
Council Member

ABSENT

None

OTHERS PRESENT

Jim Allan
Warren Peterson
Dorothy Jeffery
John Quick
Jim Fletcher
Jerry Anderson
Dennis Koop
Mike Christensen
Tom Hamilton

City Manager
City Attorney
City Recorder
City Engineer
KNAK Radio
Canon Copier Representative
Canon Copier Representative
Xerox Copier Representative
Delta Postmaster

Mayor Grant Nielson called the meeting to order at 7:00 p.m. Dorothy Jeffery, Delta City Recorder, acted as secretary. Mayor Nielson stated that notice of the time, place and agenda of the meeting had been posted at the principal office of the governing body located at 76 North 200 West, and was provided to the Millard County Chronicle Progress, the Millard County Gazette, and the local radio station, KNAK, and to each member of the City Council by personal delivery two days prior to the meeting.

MINUTES

The proposed minutes of a Regular City Council Meeting held July 1, 1985, were presented for the Council's consideration and approval. The Council reviewed the minutes briefly, after which Council Member Don Dafoe MOVED the minutes be approved as corrected. Council Member Gayle Bunker SECONDED the motion. Mayor Nielson asked if there were any questions or comments regarding the minutes or the motion. There being none, he called for a vote on the motion, which passed unanimously.

ACCOUNTS PAYABLE

There were no accounts payable presented at this meeting.

CITY MANAGER JIM ALLAN: CITY COUNCIL'S POSITION AND DECISION ON PROPOSED AIRPORT ANNEXATION

Mayor Nielson asked City Manager Jim Allan to review with the Council the proposed airport annexation. Mr. Allan reviewed with the Council a map of the proposed airport annexation and a letter dated June 28, 1985, that had been given to them the previous week, which letter was addressed to Mayor Grant Nielson from City Attorney Warren Peterson regarding the airport annexation. Mr. Allan told the Council that the proposed annexation area consists of 3,827 acres. Mr. Allan then asked Council Member Craig Greathouse, who is the Council Member over the Planning and Zoning Commission, to comment on the recommendation of the Planning and Zoning Commission regarding the proposed airport annexation.

Council Member Craig Greathouse said the recommendation of the Planning and Zoning Commission was for approval of the airport annexation. They are in favor of the annexation as long as the annexation meets qualifications to be specified in the annexation policy declaration statement.

Council Member Neil Dutson said that there is some of the property located within the area of the proposed annexation which consists of 160 acres, being the Northeast Quarter of Section 10 that is owned by the State of Utah, which, in his opinion, should not be included in the proposed annexation. Council Member Don Dafoe questioned what the problem would be with having State owned property included in the annexation. Attorney Peterson responded that if the State property was to be included in the annexation, the State would have to petition for annexation, but that would only be necessary if the petition was needed to have a majority of the property owners' approval to meet the state requirement for annexation. There is no assessed value to State owned property. Therefore, it would not be considered in the total assessed value of the proposed annexation properties. Council Member Gayle Bunker said that, in his opinion, if the property is not needed to accomplish the proposed annexation, he would suggest the State property not be included in the project.

Council Member Bunker said that the Council should encourage the proposed annexation, which would assure Delta City control of the development in that area and thus eliminate the problems that are presently facing the City Council with the area immediately west of the Delta City limits, with Delta City furnishing utilities, police protection, and other services to businesses and residences just outside of the City limits.

Council Member Ruth Hansen said that if the proposed annexation is encouraged by the Council, the annexation policy declaration statement must be written with conditions that the property owners in the proposed annexation area be responsible for the cost of installing water lines, sewer lines, water storage tanks, paving of the streets, curb, gutter and sidewalks, and all other improvements so that the present City residents do not have to have an increase in their property tax in the future to assist in the payment of the cost of these improvements.

Council Member Craig Greathouse stated that he had two concerns regarding the proposed annexation. First, the plat map has indicated paved roads accessing the five acre lots on the south side; and second, the present well located within the proposed annexation area is not large enough to accommodate the proposed project. Council Member Greathouse further stated that before he could vote in favor of the proposed annexation, the proposed paved roads would have to be deleted and the existing water capacity (well) would have to be increased. Attorney Peterson said that Keith Taylor, representing the Christensen/Madsen group, had specified at least one of the streets would be paved because it was intended to be a main traffic collector street into the project.

Council Member Don Dafoe said that the well which is located within the project is in litigation at the present time and questioned if the annexation is approved, would Delta City withdraw their protest to the well application applied for by the Christensen/Madsen group. Attorney Peterson stated that the offer that the Christensen/Madsen group have made is that if the proposed annexation is approved, they will gift Delta City the majority of the water right. Therefore, it would be appropriate to be made a condition of the annexation agreement. Attorney Peterson further stated that if for any reason that water is not available, there are alternative sources.

Following further discussion and questions by the Council, Attorney Peterson suggested a resolution be adopted by the Council setting the conditions for annexation. The first resolution is provided for in the statute. It would accept the petition for annexation and authorize that a policy declaration particular to that annexation be prepared. The following list of conditions for the proposed annexation was discussed:

1. Utility line extension and other such services should be paid for by the land owners under a development agreement and should not cost the City anything.
2. All conditions discussed by the Council will be embodied in a development agreement.
3. The road on the five acre parcels not be paved unless they are classified as collector roads.
4. The well and the water rights have to be sufficient to meet the needs of the land owners within the project, including resolution litigation regarding the Morley well.
5. The developer provide water storage facilities for fire protection and culinary use.
6. In the event additional sewer lagoons are needed, the developer will provide the lagoons at no cost to the present City residents.

After the Council had reviewed the above proposed conditions to the proposed annexation, Council Member Gayle Bunker MOVED to instruct City Attorney Warren Peterson to prepare an initial resolution stating the petition for the airport annexation has been accepted, excluding the 160 acres of state owned property, and instructing the Petitioners to prepare a policy declaration statement and when the conditions the Council has set as described above and as contained in the June 28, 1985, letter from City Attorney Warren Peterson, are met, present the policy declaration regarding the airport annexation to the Council for consideration and approval. The motion was SECONDED by Council Member Don Dafoe. Mayor Nielson then asked for a roll call vote on the motion. The voting was as follows:

Council Member Don Dafoe	Yes
Council Member Gayle Bunker	Yes
Council Member Neil Dutson	Yes
Council Member Craig Greathouse	Yes
Council Member Ruth Hansen	No

The motion carried. Mayor Nielson said he wanted to declare that he owned one acre of property located within the proposed annexation area. Council Member Neil Dutson stated he wanted to declare that he owns 4 acres of land located within the proposed annexation area, and that his children are beneficiaries of the L. Derral Christensen Trust.

CITY MANAGER JIM ALLAN: DISCUSSION/DECISION OF COPY MACHINE FOR DELTA CITY
DENNIS KOOP - CANON REPRESENTATIVE; MIKE CHRISTENSEN - XEROX REPRESENTATIVE

Mayor Nielson asked City Manager Jim Allan to present, for the Council's review, the Canon and Xerox copiers. Mr. Allan introduced Jerry Anderson and Dennis Koop, representatives of Associated Business Products, selling the Canon Copier, and Mike Christensen, representative of Golden Ruler Office Products, selling the Xerox Copier. Mr. Allan then asked Mr. Koop to make his presentation, after which Mike Christensen would make his presentation. Following the presentations, a brief discussion and questions by the Council, Council Member Neil Dutson MOVED to table the issue and allow the Council time to review the facts presented regarding each copier, and that the item be placed on the next regularly scheduled City Council meeting agenda for the Council's consideration and approval. The motion was SECONDED by Council Member Don Dafoe. Mayor Nielson asked if there were any further questions or comments regarding the motion or the copiers. There being none, he called for a vote on the motion. The motion carried unanimously.

CITY ENGINEER JOHN QUICK: FINAL PAYMENT REQUEST FOR INTERSTATE CONSTRUCTION
-- SEWER PROJECT

Mayor Nielson asked City Engineer John Quick to present to the Council the final pay request for Interstate Construction. Mr. Quick reviewed with the Council the work completed by Interstate Construction Company on the Sewer Improvement Project, Phase III. Mr. Quick told the Council that the work had been completed to the satisfaction of both himself and Public Works Director Neil Forster, and both had inspected the job thoroughly, and that

all but \$5,000.00 of the contract had been paid. The \$5,000.00 had been held until signs were installed as required by the contract. Mr. Quick stated that the signs are now in place and he therefore recommended approval of final payment of \$5,000.00. Council Member Don Dafoe MOVED that the Council approve the \$5,000.00 final payment to Interstate Construction Company for work completed on the Sewer Improvement Project Phase 3. The motion was SECONDED by Council Member Craig Greathouse. Mayor Nielson asked if there were any further comments or questions regarding the motion. There being none, he called for a vote on the motion, which passed unanimously.

CITY ENGINEER JOHN QUICK: PAY ESTIMATE FOR RON JOHNSON CONSTRUCTION COMPANY
-- WATER IMPROVEMENTS PROJECT, PHASE II

Mayor Nielson asked City Engineer John Quick to present to the Council for their consideration of payment a pay request for Ron Johnson Construction Company for work completed to date on the Water Improvement Project, Phase II. Mr. Quick presented the following change order and pay request:

Project: Delta Water Improvement, Phase II, Schedule 1
Date: January 9, 1984
Change Order No. 3

You are hereby requested to comply with the following changes from the contract plans and specifications:

Add retaining wall at Tank Site on Northwest Corner
8" x 3' x 50'.

A total increase in contract price of \$1,540.00.

The total adjusted contract price to date thereby is
\$295,752.80.

Following a brief discussion of the pay request and change order, Council Member Craig Greathouse MOVED the Change Order Number 3 and Pay Request to Ron Johnson Construction Company in the amount of \$1,540.00 for adding a retaining wall at tank site on northwest corner 8" x 3' x 50' be approved for payment. The motion was SECONDED by Council Member Gayle Bunker. Mayor Nielson then asked if there were any comments or questions regarding the change order or the pay request. There being none, he called for a vote on the motion. The motion passed unanimously.

CITY ENGINEER JOHN QUICK: PAY REQUEST AND CHANGE ORDER FOR VALLEY ASPHALT
COMPANY -- STREET PROJECT

Mayor Nielson asked City Engineer John Quick to present to the Council for their consideration and approval a pay request and change order for Valley Asphalt for work completed to date on the street improvement project. Mr. Quick presented the following Change Order document to the Council for consideration and approval.

CHANGE ORDER

Order No. 1

Date: July 8, 1985

Agreement Date: _____

NAME OF PROJECT: DELTA STREET PROJECT

OWNER: DELTA CITY

CONTRACTOR: VALLEY ASPHALT

The following changes are hereby made to the CONTRACT DOCUMENTS:

SEE ATTACHED SHEET FOR UNIT PRICES

Justification:

TO ALLOW FOR WORK ITEMS ENCOUNTERED

Change to CONTRACT PRICE:

Original CONTRACT PRICE: \$954,283.86

Current CONTRACT PRICE adjusted by previous CHANGE ORDER \$ N/A

The CONTRACT PRICE due to this CHANGE ORDER will be (increased) by \$18,876.13.

The new CONTRACT PRICE including this CHANGE ORDER will be \$973,159.99

Change to CONTRACT TIME:

The CONTRACT TIME will be (increased)(decreased) by 0 calendar days.

The date for completion of all work will be _____ (Date).

Approvals Required:

To be effective this Order must be approved by the Federal agency if it changes the scope or objective of the PROJECT, or as may otherwise be required by the SUPPLEMENTAL GENERAL CONDITIONS.

Requested by: _____

Recommended by: _____

Ordered by: _____

Accepted by: _____

Federal Agency Approval (where applicable): _____

DELTA STREET PROJECT
CHANGE ORDER NO. 1

ITEM NO.	DESCRIPTION	ESTIMATED UNITS	UNIT PRICE	TOTAL
9.	Revise Depth to 8" (unit price changed)	19,824 S.Y.	\$ 0.39	\$ (991.20)
1B.	Furnish and Install New 6" Gate Valve and Box	3 Each	411.13	1,233.39
2B.	Reconnect Existing Water Service Lines Including New Saddle, Corp. Stop and Fittings for 3/4" or 1" Service	4 Each	189.75	759.00
3B.	Reconnect Existing Water Service Lines Including New Saddle, Corp. Stop and Fittings for 2" Service	1 Each	246.68	246.68
4B.	Furnish and Install 15" RCP	250 L.F.	22.14	5,535.00
5B.	Remove 12" Concrete Pipe	200 L.F.	3.80	760.00
6B.	Relay 12' Concrete Pipe	160 L.F.	9.50	1,520.00
7B.	Remove Concrete Boxes	6 Each	190.00	1,140.00
8B.	Replace Water Meter (Furnished by City)	2 Each	94.88	189.76
9B.	Furnish and Install Granular Borrow	1,000 Ton	5.10	5,100.00
10B.	Replace Existing Water Service Line, 3/4" and 1"	500 L.F.	5.06	925.98
11B.	Replace Existing Water	150 L.B.	5.69	<u>853.50</u>
TOTAL, CHANGE ORDER NO. 1				<u>\$18,876.13</u> <u>- 1,604.02</u> 17,272.11 <u>- 853.50</u> \$16,418.61

Following a brief discussion of the issue, Council Member Craig Greathouse MOVED to approve Change Order Number One with the following changes:

Item #10B: The City crew will be instructed to replace existing water service lines 317LF 3/4" and 1", changing the cost to \$925.98.

Item 11B: The City crew will replace existing water service line 2" 150LF, changing the cost to -0-.

With these changes, there will be added \$18,876.13 to the original contract in the amount of \$954,283.00, making the revised total amount of the contract \$973,159.99. The motion was SECONDED by Council Member Don Dafoe. Mayor Nielson then asked if there were any comments or questions regarding the motion. There being none, he called for a vote on the motion. The motion passed unanimously.

City Engineer John Quick then presented for the Council's consideration and approval a pay request number 1 for Valley Asphalt for work completed to date on the road improvement project in the amount of \$19,716.76, with the retainage of \$1,971.67, making the total amount of the pay request \$17,745.09. Following a brief discussion of the request for payment, Council Member Gayle Bunker MOVED to approve pay request number 1 in the amount of \$17,745.09 to Valley Asphalt for work completed to date on the Delta City Street Improvement Project. The motion was SECONDED by Council Member Neil Dutson. Mayor Nielson asked if there were any further comments or questions regarding the motion. There being none, he called for a vote on the motion. The motion passed unanimously.

WATER RIGHT ACQUISITION AGREEMENT BETWEEN DELTA CITY AND INTERMOUNTAIN POWER ASSOCIATION

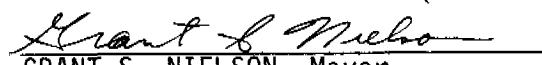
Mayor Nielson asked City Attorney Warren Peterson to report to the Council the status of the water right acquisition agreement between Delta City and Intermountain Power Agency. Mr. Peterson reported to the City Council that he had received a response to this request to Intermountain Power Agency (IPA) to proceed with implementation of the Water Rights Acquisition Agreement between Delta City and IPA.

Mr. Peterson said he received a call from Joseph Novak, the water rights attorney representing IPA. Mr. Peterson said that Mr. Novak had explained that the water rights which IPA had committed to the Water Rights Acquisition Agreement were purchased from S&G Corporation. IPA then filed a change application seeking approval from the Utah State Engineer to use those water rights in the Delta municipal water system. The State Engineer approved the change application by a Memorandum Decision issued in September, 1984. S&G Corporation then filed a lawsuit appealing a portion of the change application approval because it required that the amount of water which could be diverted under the S&G Corporation water right be reduced to allow for lack of return flow resulting from use of water in the Delta water system.

Mr. Peterson said that the Water Rights Acquisition Agreement included a provision that on January 15 and July 15 of each year after final approval of the change application of the S&G water rights, Delta City and IPA would initiate a process whereby Delta City would receive deeds for the water rights that it was entitled to acquire under that agreement. Mr. Peterson said that it was necessary for Delta City to file such a request prior to July 15, but such a request had not been filed due to the uncertainty as to the status of the water rights.

Mr. Peterson said that it was extremely unlikely that anything resulting from the appeal filed by S&G Corporation would affect Delta City's rights under the agreement. He therefore recommended that the agreement be implemented and requested approval to file the necessary requests of IPA prior to July 15. After discussion and questions from the Council members, the Council members concurred that the necessary notices should be filed with IPA.

At this point in the meeting, due to a power outage, all other items on the agenda were tabled until the next regularly scheduled meeting. Mayor Nielson asked if there were any further comments or questions or items to be discussed. There being none, Council Member Neil Dutson MOVED to adjourn the meeting. The motion was SECONDED by Council Member Don Dafoe. The meeting adjourned at 8:45 p.m.


GRANT S. NIELSON, Mayor

Attest: _____
DOROTHY JEFFERY
Delta City Recorder

MINUTES APPROVED: July 15, 1985